

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY, STATE OF FLORIDA  
CIVIL DIVISION**

COAST BANK OF FLORIDA,



Plaintiff,

CIRCUIT CIVIL CASE NO.: 2006-CA-4738-SC

vs.

LINDA M. MAGGI, Individually and  
KATHLEEN MAGGI, Individually,

Defendants.

RECORDED IN OFFICIAL RECORDS  
INSTRUMENT # 2006177980 9 PGS  
2006 OCT 05 03:24 PM  
KAREN E. RUSHING  
CLERK OF THE CIRCUIT COURT  
SARASOTA COUNTY, FLORIDA  
DDAUGHER Receipt#836779

**FINAL SUMMARY JUDGMENT FOR FORECLOSURE (SALE TO BE 120 DAYS AFTER  
JUDGMENT), DAMAGES, AND AWARD OF ATTORNEY'S FEES AND COSTS**

THIS CAUSE comes before the Court upon a Joint Stipulation to Entry of Final Summary Judgment for Foreclosure, Damages, and Award of Attorney's Fees and Costs submitted by the Plaintiff, COAST BANK OF FLORIDA ("COAST BANK") and the Defendants, LINDA M. MAGGI and KATHLEEN MAGGI regarding COAST BANK's Motion for Summary and/or Default Judgment and for Award of Attorney's Fees and Costs (the "Motion for Final Judgment"). The Court has reviewed the Joint Stipulation, Motion for Final Judgment for Foreclosure, Affidavits in Support of Motion for Final Judgment, the file in this action, and otherwise being fully advised in the premises, finds as follows:

1. The Court has jurisdiction of this cause and of all parties before it.
2. The Plaintiff's address is COAST BANK OF FLORIDA, c/o Melissa Beebee, 6205 Cortez Road West, Bradenton, FL 34210.
3. The Defendants', LINDA M. MAGGI and KATHLEEN MAGGI, address is 2490 Altoona Avenue, North Port, Florida 34286.

STP:664266:4



4. On or about May 25, 2006, COAST BANK filed its Complaint seeking relief against LINDA M. MAGGI and KATHLEEN MAGGI (the "Owners") for foreclosure of a mortgage which mortgage was recorded in the Official Records of Sarasota County, Florida, Instrument No. 2005044438, on March 4, 2004.

5. The Plaintiff, COAST BANK, is a Florida banking corporation, doing business in Sarasota County, Florida.

6. The Defendants, LINDA M. MAGGI and KATHLEEN MAGGI, are residents of the State of Florida.

7. On or about November 22, 2004, Defendants, LINDA M. MAGGI and KATHLEEN MAGGI, executed and delivered to the Plaintiff its Adjustable Rate Note ("Note") in the face amount of \$167,400.00. A true and correct copy of that Note is attached to the Complaint and incorporated herein by reference as EXHIBIT "A".

8. On or about November 22, 2004, Defendants, LINDA M. MAGGI and KATHLEEN MAGGI, executed and delivered to the Plaintiff a Mortgage ("Mortgage"), pledging the property described therein (the "Subject Property") as security for said Note, which was recorded in the Official Records of Sarasota County, Florida, Instrument No. 2005044438, on March 4, 2004. A true and correct copy of the Mortgage is attached to the Complaint and incorporated herein by reference as EXHIBIT "B".

9. On or about November 22, 2004, Defendants, LINDA M. MAGGI and KATHLEEN MAGGI, executed and delivered to the Plaintiff a Construction Loan Agreement ("Construction Loan"). A true and correct copy of the Construction Loan is attached to the Complaint and incorporated herein by reference as EXHIBIT "C".

10. The Plaintiff is the owner and holder of the Note (EXHIBIT "A"), Mortgage (EXHIBIT "B"), and Construction Loan (Exhibit "C"), which documents are collectively hereinafter referred to as the "Loan Documents".

11. The Defendants, LINDA M. MAGGI and KATHLEEN MAGGI, have defaulted under the terms of the Loan Documents by failing to convert to permanent financing with Coast Bank and execute the required documentation as outlined in section P of the Construction Loan (Exhibit "C").

12. On April 11, 2006 a demand was made on Defendants, LINDA M. MAGGI and KATHLEEN MAGGI, for the payment of all remaining indebtedness due on the Loan, but that demand has not been met. A copy of the demand is attached to the Complaint and incorporated herein by reference as EXHIBIT "D".

13. As a result of the default incurred herein, the Plaintiff has been obligated to retain the services of its undersigned counsel, to whom a reasonable fee is owed, together with reimbursement of costs.

14. There is now due payment of the principal balance plus accrued but unpaid interest at the default rate, late charges, court costs and attorneys fees, which has not been received.

15. All conditions precedent to the maintaining of this action have either occurred or been waived.

16. The Subject Property is owned by the Defendants, LINDA M. MAGGI and KATHLEEN MAGGI.

17. The Plaintiff's interest in the Subject Property is superior to that of the Defendants.

18. The Court finds that the law firm of Ruden, McClosky, Smith, Schuster & Russell, P.A., (COAST BANK's counsel) has expended 38 hours of attorney time, and 4.0 hours of paralegal time in this case. The Court has reviewed the circumstances of this case, and received evidence as to the time expended, the issues, and considers the time to have been reasonably expended. The Court finds that a reasonable hourly rate for attorneys who worked on this case to be \$185.00- \$300.00 and paralegals \$125.00 - \$135.00. In addition, COAST BANK presented expert witness testimony relative to the reasonableness of the fee, and COAST BANK's expert is entitled to a fee of \$50.00. Based upon the criteria discussed by the Florida Supreme Court in *Florida*

*Patient's Compensation Fund v. Lena Rowe*, 472 So.2d 1145 (Fla. 1985) and the factors set forth in Rule 4-1.5(B) of the Rules of Professional Conduct, the Court finds that a fee of \$7,750.00 is reasonable in this case.

**IT IS THEREUPON ORDERED AND ADJUDGED that:**

1. Plaintiff's Motion for Final Judgment is hereby GRANTED.
2. The following sums are due to COAST BANK from the Defendants LINDA M. MAGGI and KATHLEEN MAGGI:

Principal Balance	\$ 167,400.00
Interest through 07/12/06	\$ 7,097.36
Interest from 07/12/06 through 09/05/2006 <i>Per Diem Interest (\$40.70)</i>	\$ 1,682.31
Late fees	\$ 371.06
escrow shortage	\$ 269.85
<b>TOTAL</b>	<b>\$ 176,820.58</b>
 ATTORNEY'S FEES	 \$ 7,750.00
COSTS	\$ 535.00
<b>TOTAL AMOUNT DUE</b>	<b>\$ 185,105.58</b>

which total sums shall bear interest after 6/15, 2006, at nine percent (9%) per annum; and on which total sum there is hereby declared a first lien upon the property described on the attached EXHIBIT "A." The lien of COAST BANK is superior in dignity to any rights, title or interest, or claim of any Defendant in and to the aforesaid property, or any person making any claim thereto after the filing of COAST BANK's Notice of *Lis Pendens* in this cause.

3. If the total sums with interest as set forth in the preceding paragraph is not first paid, then the Clerk of the above styled Court shall sell the Property to the highest bidder FOR CASH. Such sale to be held on February 5, 2006 11:00 A.M./~~P.M.~~, or as soon thereafter as the Clerk of this Court shall be prepared to conduct that sale (said sale date to be no earlier than February 1, 2007). Such sale will take place at the Historic Courtroom, Room 108, East Wing, of the Sarasota County Courthouse, 2000 Main Street, Sarasota County, Florida, to the highest bidder for CASH, as more fully set forth in the next paragraph, after the sale is first advertised in a Sarasota County newspaper, once a week for two (2) consecutive weeks, the second publication at least five (5) days before the said sale.

4. COAST BANK shall advance the cost of publishing the Notice of Sale, together with the Clerk's fee of \$60.00 for making the sale, and all other subsequent costs of this action, and shall be reimbursed by the Clerk out of the proceeds of the sale if COAST BANK is not the purchaser of the Property at the sale.

5. COAST BANK may be the bidder and purchaser of the Property at the sale and, if COAST BANK is the purchaser, the Clerk shall give said COAST BANK a credit toward its bid for all or any portion of the sum declared to be a first lien on the Property described in Paragraph 2 above, which lien secures the sum due said COAST BANK under this Judgment, plus post-judgment interest, costs, and any additional fees awarded by this court, or such part of said sum as may be necessary to pay said COAST BANK's bid in full.

6. In the event that COAST BANK assigns all, or any, of the rights granted to COAST BANK in this Judgment, COAST BANK's Assignee shall be entitled to fully and completely exercise any and all rights to assigned, including the right to credit bid on the property at the Judicial Sale, and to receive a Certificate of Title in the event that the Assignee is the successful bidder. The Clerk of this Court is hereby ordered and directed to recognize such an assignment, and the rights granted by COAST BANK to the Assignee therein, without further order of this Court.

7. Any bidder other than COAST BANK or its Assignee, who is the successful purchaser of the Property at the sale held pursuant to Paragraph 3 above shall be required, in addition to the winning bid amount, to pay over to the Clerk all Clerk's fees and expenses incurred or assessed in conjunction with said sale, and the handling of any funds deposited in the Registry of the Court, plus all documentary stamps, if any, necessarily required to be affixed to any Certificate of Title issued in conjunction with said sale.

8. After confirmation of the sale, whether by the Clerk filing the Certificate of Title or by the Order of the Court ruling upon objections to said sale, the Clerk shall make distributions of the proceeds of said sale by paying:

(a) All expenses of the proceedings subsequent to the entry of this Judgment, including the costs of publishing the Notice of Sale and the Clerk's fee of \$60.00 for making the sale, and such sums as by appropriate Court Order be found due and awarded to COAST BANK subsequent to entry of this Order, unless COAST BANK shall be the purchaser of the Property at the sale.

(b) Documentary stamps, if any, on Certificate of Title.

(c) COAST BANK's taxable costs allocable to the relief granted on the Loan.

(d) COAST BANK's attorneys' fees allocable to the relief sought on the Loan.

(e) Total sum due COAST BANK, less the aforesaid items paid, plus post-judgment interest at the rate prescribed in Paragraph 2 above from date of judgment to date of sale. The Clerk shall retain any amount remaining and deal with any proceeds remaining as provided for below.

9. If the total amount realized from the sale exceeds the total sums mentioned in the preceding paragraph, the Clerk shall disburse the surplus as this Court shall hereinafter direct, and if the total amount so realized shall not be sufficient to pay all of said sums, the Clerk is first to pay those specified in the preceding paragraph, in the order therein set forth.

10. Pursuant to Florida Statutes § 45.031(1)(a) & (b) (effective July 1, 2006), this order provides the following statements:

IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THIS FINAL JUDGMENT. IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN 60 DAYS AFTER THE SALE. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH THE CLERK OF THE COURT, SARASOTA COUNTY, WITHIN TEN (10) DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE SALE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT.

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING TO HELP YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT GULFCOAST LEGAL SERVICES, INC. [(941) 366-1746] TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT GULFCOAST LEGAL SERVICES, INC. FOR ASSISTANCE, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

11. On filing the Certificate of Title, LINDA M. MAGGI and KATHLEEN MAGGI, and all persons claiming under or against the Defendants since the filing of the Notice of *Lis Pendens*, shall be foreclosed of all Estate or claim in the Property, and the purchaser at the sale shall be let into possession of the Property, provided, however, nothing contained in this Paragraph shall act to extend the time for the exercise for the right of redemption, provided under Florida Statute § 45.0315 (2006).

12. In the event the amount realized from the sale contemplated herein is not sufficient to pay the total sum due, COAST BANK shall have the right to seek further relief against the

Defendants LINDA M. MAGGI and KATHLEEN MAGGI for any deficiency balance, together with any additional attorney's fees and costs as it might incur, and for such other and further relief as the Court deems appropriate under the circumstances.

DONE AND ORDERED in Chambers, at Sarasota County, Florida, this 10<sup>th</sup> day of September, 2006.



HON. LEE E. HAWORTH  
CIRCUIT COURT JUDGE

Conformed Copies To:

L. GEOFFREY YOUNG, ESQ.  
CARY A. CASH, ESQ.  
RUDEN, McCLOSKEY, SMITH,  
SCHUSTER & RUSSELL, P.A.  
150 2nd Ave. No, Suite 1700  
St. Petersburg, FL 33701  
Attorneys for Plaintiff

ELIZABETH M. BOYLE, ESQ.  
GULFCOAST LEGAL SERVICES, INC.  
1750 17<sup>th</sup> Street, Unit 1  
Sarasota, FL 34234  
Attorney for the Defendants



**EXHIBIT "A"**

**LOT 3, BLOCK 443, OF 9TH ADDITION TO PORT CHARLOTTE SUBDIVISION,  
ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 12, PAGE 21, OF  
THE PUBLIC RECORD OF SARASOTA COUNTY, FLORIDA.**

**The real property or is address is commonly known as:**

**2490 Altoona Avenue  
North Port, Florida 34286**

**The real property tax identification number is 0982-04-4303.**